

The problems of judicial expertise in criminal proceedings

Abstract

Judicial Expertise is a substantial and irreplaceable part of criminal proceedings. It's legal regulation is required to fulfil high demands. Firstly, it must provide an effective platform for usage of expert evidence in criminal proceedings. Secondly, it ought to ensure that experts provide quality outcomes in compliance with *lege artis*. Thirdly, it should offer satisfying conditions for expert's activities. This thesis selects a few of the current issues originating from aforementioned requirements. It analyses their origin and evaluates how the Czech legal regulation solves them.

At first, the thesis defines fundamental institutes which create a base for an expert's function in criminal proceedings. Subsequently, it offers an overview of statutory regulation of judicial expertise in criminal proceedings. It deals with both special regulation in criminal law and general regulation of Act No. 254/2019 Sb., on judicial experts, expert offices and expert institutes, together with relevant ordinances.

Chapter three deals with legislative changes in the field of judicial experts effective from 1st January 2021. It focuses on new experts appointing, remuneration and supervision of experts' activities. It analyses and compares how these issues are regulated in the previous and in the effective regulation. Certain changes such as better transparency of expert selection and legal claim to appointment are in my opinion changes for the better. However, increase of remuneration seems to be deficient, particularly, in connection to harsher offences and sanctions for experts. Simultaneously, Ministry of Justice show flagrant unreadiness to accommodate the legislative changes.

Furthermore, the thesis deals with a cognitive bias influencing experts. An array of research proves that experts are vulnerable to cognitive bias even in areas traditionally considered almost infallible. The thesis examines the origin of the bias and offers several practical countermeasures.

Final chapter evaluates ways which express levels of probability in conclusions of expert evidence. The traditional verbal form of probability expression seems to be insufficient regarding current requirements on scientific findings. It is also unreliable for its subjectivity. Likelihood ratio may provide solution because it quantifies the probability of expert's findings and offers an instrument with which courts might work with an expert's evidence probative value with usage of Bayes theorem.

Key words: legislative changes in judicial expertise – cognitive bias – likelihood ratio